

REMARKS

Claims 33-35, 38-44, 47-50, 56-59, 61-63, 70, and 72-77 are pending for examination.

Applicant's representative thanks the Examiner for telephone communications on January 31, 2008 and March 7, 2008, in which the Examiner suggested responding to the provisional obviousness-type double-patenting rejection as discussed below.

Provisional Obviousness-Type Double-Patenting Rejection

Claims 33-35, 38-44, 47-50, 56-59, 61-63, 70, and 72-77 have been provisionally rejected on the grounds of non-statutory obviousness-type double-patenting as being unpatentable over claims 1-6, 9-13 and 15 of co-pending application Serial No. 10/201,635.

Applicant respectfully reminds the Patent Office of M.P.E.P. §804(I)(B)(1), "Nonstatutory Double Patenting Rejections," which states, in part, that:

If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.

Applicant believe that this is the case here, as the only rejection in the Final Office Action is a non-statutory obviousness-type double-patenting rejection in view of Application Serial No. 10/201,635, which has a filing date of July 22, 2002, later than the filing date of the instant application of September 17, 1997. Accordingly, it is respectfully requested that this rejection be withdrawn.


CONCLUSION

In view of the foregoing remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after the foregoing remarks, that the application is not in condition for allowance, the Examiner is requested to call the undersigned at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Dated: March 25, 2008

Respectfully submitted,

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